

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

MARJORIE FERRELL, <i>et al.</i> ,)	
)	
Plaintiffs,)	No. C-1-01-447
)	
v.)	Judge Sandra S. Beckwith
)	
WYETH-AYERST LABORATORIES,)	Magistrate Judge Timothy S. Hogan
INC., <i>et al.</i> ,)	
)	
Defendants.)	

**CO-LEAD COUNSEL’S MOTION FOR AWARD
OF PARTIAL REIMBURSEMENT OF EXPENSES**

Pursuant to Federal Rules of Civil Procedure 23(h) and 54(d)(2), Co-Lead Counsel¹ seek an award of \$325,000 as partial reimbursement of expenses they incurred in connection with services rendered in this action. In support of this Motion, Co-Lead Counsel state as follows:

1. As part of the settlement of this action, Defendants have agreed not to oppose payments of expenses up to and including \$325,000. *See* Settlement Agreement (Doc. No. 177, #7) ¶ 12.

2. Pursuant to Fed. R. Civ. P. 23(h), in a certified class action “the court may award . . . nontaxable costs authorized . . . by agreement of the parties.” An award of attorneys’ fees and expenses lies within the sound discretion of the trial court. *Enterprise Energy Corp. v. Columbia Gas Transmission Corp.*, 137 F.R.D. 240, 248 (S.D. Ohio 1991) (citing *Ramey v. Cincinnati Enquirer, Inc.*, 508 F.2d 1188, 1196 (6th Cir. 1974), *cert. denied*, 422 U.S. 1048 (1975)).

¹ Co-Lead Counsel include the firms of Wexler Toriseva Wallace LLP, Cafferty Faucher LLP, Edelson & Associates LLC, Heins, Mills & Olson P.L.C., and Hagens Berman Sobol Shapiro LLP.

3. As set forth in the Declaration of Jennifer Fountain Connolly (Ex. A), all the expenses incurred by Plaintiffs' counsel were necessary to the prosecution of this litigation and are reasonable in amount and therefore should be awarded.

WHEREFORE Plaintiffs respectfully request that this Court enter an order, substantially in the form attached hereto as Exhibit B, awarding them a partial reimbursement of their expenses, in the amount of \$325,000, and all other relief that this Court deems just and proper.

Dated: June 1, 2007

Respectfully submitted,

/s/ Patrick E. Cafferty
One of Plaintiffs' attorneys

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MARJORIE FERRELL, et al.,)	
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Plaintiffs,)	Judge Sandra S. Beckwith
)	Magistrate Judge Timothy S. Hogan
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INC., et al.,)	
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CERTIFICATE OF SERVICE

I, Patrick E. Cafferty, hereby certify that a copy of the foregoing *Co-Lead Counsel's Motion for Award of Partial Reimbursement of Expenses* was electronically filed. Those attorneys who are registered with the Electronic Filing System may access these filings through the Court's System, and notice of these filings will be sent to these parties by the operation of the Court's Electronic Filing System.

Dated: June 1, 2007

By: s/Patrick E. Cafferty
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